

Serial No. 09/911,586
Atty. Doc. No. 2000P14826US

REMARKS

Applicants have amended claims 33-35, 38, 40-46, 49-50, 54-55 and 63 and added new claims 65-70. Thus, claims 33-70 are presented for examination. Applicants respectfully request reconsideration and allowance of the pending claims in view of the foregoing amendments and the following remarks.

Response to Double Patenting rejection:

The Examiner rejected claim 33 under the judicially created doctrine of obviousness-type double patenting. The Examiner indicated that although the subject matter of this claim is not identical to claims 18 and 19 of U.S. application Serial No. 09/911,585, the pending claim is not patentably distinct from these claims.

While Applicants do not acquiesce to the grounds of the rejection, Applicants submit the accompanying Terminal Disclaimer in accordance with 37 C.F.R. §§ 1.321(b) and 3.73(b) in order to promptly resolve this issue.

Response to objections to the claims:

Claims 42, 63 and 55 stand objected due to informalities as indicated by the Examiner. Applicants have amended the claims as suggested by the Examiner. Thus Applicants respectfully request the Examiner to withdraw the objections to these claims.

Response to rejections under Section 112:

Claims 34-35, 38, 40, 43, 49 and 54 stand rejected due to Section 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Applicants have amended claim 33 to recite wherein programming language commands are made available to the user in the graphical editor, and wherein the programming language commands are adapted to given hardware specifications (see specification paragraphs [0009] and [00011] among other places) and new claim 65 which recites that the programming language commands comprise function blocks and graphical elements (see specification paragraphs [0007], [0013] and [0021] among other places).

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Amended claims 34 and 35 depend from new claim 65 and provide a sufficient antecedent basis for the "graphical elements." In claims 34 and 50 Applicants amended "structured textual language" to "textual language" to address the inconsistency alleged in the office action.

In claim 35 and 38 Applicants amended "motion control flowchart" to "control flowchart" to establish a sufficient antecedent basis.

Amended claims 38 and 40 now depend from new claim 65 to establish a sufficient antecedent basis for the "function blocks".

In claim 49 Applicants changed "flowchart editor" to "graphical editor" to fix the inconsistency pointed out by the Examiner.

In claim 54 Applicants changed "language element" to "graphical elements" (see specification page 4 paragraph [0012] among others) to establish a sufficient antecedent basis.

Response to rejections under Section 103:

Independent claims 33 and 49 are rejected under 35 USC 103(a), the Examiner contending these claims are obvious over Weinhofer (USPN 6,442,442) in view of Zhang et al. (USPN 6,282,699).

Applicants have amended claims 33 and 49 to recite the additional limitation that programming language commands are made available to the user in the graphical editor, and wherein the programming language commands are adapted to given hardware specifications. This provides a programming environment that is adapted to the basic hardware, e.g. the underlying machine configuration or hardware configuration and, thus meets the existing requirements and boundary conditions in an optimal manner. This amended feature also provides that the library of icons of the flowchart editor will be adapted to the given hardware specifications.

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The cited references, alone or in combination, do not teach or suggest that programming language commands are made available to the user in the graphical editor, and wherein the programming language commands are adapted to given hardware specifications.

Dependent claims 34-48 and 50-64 are also patentable at least based on their dependency from independent claim 33 respectively from independent claim 49, as well as based on their own merit.

Therefore, Applicants respectfully request that the Examiner withdraw the section 103 rejection.

New independent claims 68 and 69:

In the Office Action, the Examiner indicated that claims 39 and 55 contained patentable subject matter and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. New independent claim 68 includes the limitations of formerly presented claims 33, 38 and 39. New independent claim 69 includes the limitations of formerly presented claims 49, 50, 54 and 55.

In the view of the above, Applicants respectfully submit that new independent claims 68 and 69 are in condition for allowance and request allowance for new independent claims 68 and 69.

New independent claim 70:

In the Office Action, the Examiner indicated that method claim 39 contained patentable subject matter and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. New independent claim 70 is written as a device claim containing the subject matter of formerly presented claim 39. Thus, Applicants respectfully submit that new independent device claim 70 is in condition for allowance and request allowance for new independent device claim 70.

Discussion of new claims 65 to 67:

New dependent claims 65-67 further define the scope of the invention, as described in the specification and drawings. In view of the foregoing remarks regarding the independent claims

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33 and 49, Applicants respectfully submit that claims 65-67 are patentable. Applicants thus respectfully request allowance of new claims 65-67.

Conclusion

For the foregoing reasons, it is respectfully submitted that the objections and rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, Applicants respectfully request that the Examiner reconsider the objections and rejections and timely pass the application to allowance. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d) for total independent claims in excess of 3, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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